

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

June 3, 2003

GSBCA 16111-RELO

In the Matter of BRENDA L. REDWING

Brenda L. Redwing, Aberdeen, SD, Claimant.

Cindy Osif, Supervisor/Certifying Officer, Travel Employee Relocation, National Business Center, Office of the Secretary, Department of the Interior, Denver, CO, appearing for Department of the Interior.

PARKER, Board Judge.

Background

When Brenda L. Redwing was transferred in March 2002 from Chantilly, Virginia, to Aberdeen, South Dakota, she intended to have her mobile home moved to the new duty station. Due to various problems in arranging for the move, Ms. Redwing changed her mind and decided to sell the mobile home.

Ms. Redwing asked her employer, the Department of the Interior, to reimburse her for the rent payments that Ms. Redwing made on the lot for the mobile home between the time she was transferred and the time she sold the mobile home. The agency denied the claim, and Ms. Redwing has asked the Board to review that decision.

Discussion

The agency is correct that there is no authority to reimburse Ms. Redwing for the rental payments on the lot. Statute provides that under regulations promulgated by the Administrator of General Services --

an agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and purchase of a residence at the new official station that are required to be paid by the employee, when the old and new official stations are located within the United States.

5 U.S.C. § 5724a(d)(1) (2000). In subchapter E of chapter 302 of the Federal Travel Regulation (FTR), the Administrator of General Services has promulgated regulations implementing this provision. The regulations describe, among other things, the various allowances applicable to employees who sell their residences incident to a transfer. Included are reimbursements for such things as brokers' fees, real estate commissions, settlement costs, and other miscellaneous expenses. 41 CFR pt. 302-11 (2001). As the agency correctly points out, however, there is no allowance that reimburses an employee for rent paid for land on which a mobile home is located, pending the sale of the mobile home. That cost is viewed as part of the cost of owning and maintaining a residence, rather than an expense of selling one.

The parties have discussed whether the lease payments at issue here may be considered as expenses for settling an unexpired lease. The FTR provides:

When are expenses for my settlement of an unexpired lease reimbursable?

When your unexpired lease (including month to month) is for residence quarters at your old official station, you may be reimbursed for settlement expenses for an unexpired lease, including but not limited to broker's fees for obtaining a sublease or charges for advertising if:

- (a) Applicable laws or the terms of the lease provide for payment of settlement expenses; or
- (b) Such expenses cannot be avoided by sublease or other arrangement; or
- (c) You have not contributed to the expenses by failing to give appropriate lease termination notice promptly after you have definite knowledge of your transfer; or
- (d) The broker's fees or advertising charges are not in excess of those customarily charged for comparable services in that locality.

41 CFR 302-7. Ms. Redwing may not be reimbursed under this provision because she did not incur any lease-breaking expenses. As the Comptroller General, the Board's predecessor in deciding claims involving relocation of federal civilian employees, stated in connection with a similar claim:

[The claimant] did not incur any lease-breaking expenses, and the expenses he did incur were comparable to those normally associated with ownership, operation, and maintenance of a mobile home used as a residence. So long as he owned the mobile home and could have moved it at any time, but did not do so, the space rental charges he incurred are nonreimbursable.

Gerald L. Brenner, B-227380 (Nov. 13, 1987). The Comptroller General's reasoning makes good sense and we will follow it.

Decision

The claim is denied.

ROBERT W. PARKER
Board Judge